

Art Unit: 1625

Claims 1-19, 21, 23-26 are pending in this application.

Claims 1-18, 25-26 are non-elected.

Claims 20, 22, 24 are deleted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 21, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter et al., WO 99/35146.

Carter et al., disclose similar compounds, their composition and method of use for inhibiting HER2 and/or EGFR and diseases arising there from.

Applicant should note that intended use in claim 22 is not a limitation under the US patent practice. The agent is deemed the same as the compound of claim 19. Therefore, claim 22 must be deleted.

Response to Argument and Affidavit

Applicant's arguments filed 7/3/08 have been fully considered but they are not persuasive. Applicant contends the Office action fails to indicate claimed compounds are in the prior art. This is not persuasive for reasons set forth above, and because the prior art set forth in the abstract and elsewhere.

The rejection under 35 USC 112 is withdrawn due to assays and data presented in the affidavit.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taofiq A. Solola, PhD. JD., whose telephone number is (571) 272-0709.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, can be reached on (571) 272-0867. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

/Taofiq A. Solola/

Primary Examiner, Art Unit 1625

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October 14, 2008